

Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 106

SENATE BILL 1298

AN ACT

AMENDING SECTIONS 33-1260 AND 33-1806, ARIZONA REVISED STATUTES; RELATING TO
CONDOMINIUMS AND PLANNED COMMUNITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-1260, Arizona Revised Statutes, is amended to
3 read:

4 33-1260. Resale of units; information required; definition

5 A. ~~Except for a sale in which a public report shall be issued pursuant~~
6 ~~to section 32-2183 and section 32-2197.02, for an exempt sale pursuant to~~
7 ~~section 32-2181.02 or~~ For condominiums with fewer than fifty units, a unit
8 owner shall mail or deliver to a purchaser within ten days after receipt of a
9 written notice of a pending sale of the unit, and for condominiums with fifty
10 or more units, the association shall mail or deliver to a purchaser within
11 ten days after receipt of a written notice of a pending sale that contains
12 the name and address of the purchaser, all of the following:

- 13 1. A copy of the bylaws and the rules of the association.
- 14 2. A copy of the declaration.
- 15 3. A dated statement containing:

16 (a) The telephone number and address of a principal contact for the
17 association, which may be an association manager, an association management
18 company, an officer of the association or any other person designated by the
19 board of directors.

20 (b) The amount of the common expense assessment for the unit and any
21 unpaid common expense assessment, special assessment or other assessment, fee
22 or charge currently due and payable from the selling unit owner.

23 (c) A statement as to whether a portion of the unit is covered by
24 insurance maintained by the association.

25 (d) The total amount of money held by the association as reserves.

26 (e) If the statement is being furnished by the association, a
27 statement as to whether the records of the association reflect any
28 alterations or improvements to the unit that violate the declaration. The
29 association is not obligated to provide information regarding alterations or
30 improvements that occurred more than six years before the proposed
31 sale. Nothing in this subdivision relieves the seller of a unit from the
32 obligation to disclose alterations or improvements to the unit that violate
33 the declaration, nor precludes the association from taking action against the
34 purchaser of a unit for violations that are apparent at the time of purchase
35 and that are not reflected in the association's records.

36 (f) If the statement is being furnished by the unit owner, a statement
37 as to whether the unit owner has any knowledge of any alterations or
38 improvements to the unit that violate the declaration.

39 (g) A statement of case names and case numbers for pending litigation
40 with respect to the unit filed by the association against the unit owner or
41 filed by the unit owner against the association. The unit owner or the
42 association shall not be required to disclose information concerning the
43 pending litigation that would violate any applicable rule of attorney-client
44 privilege under Arizona law.

(h) A statement that provides "I hereby acknowledge that the declaration, bylaws and rules of the association constitute a contract between the association and me (the purchaser). By signing this statement, I acknowledge that I have read and understand the association's contract with me (the purchaser). I also understand that ~~by accepting this contract, I may be giving up my rights to the homestead exemption protection regarding a lien of the association~~ AS A MATTER OF ARIZONA LAW, IF I FAIL TO PAY MY ASSOCIATION ASSESSMENTS, THE ASSOCIATION MAY FORECLOSE ON MY PROPERTY." The statement shall also include a signature line for the purchaser and shall be returned to the association within fourteen calendar days.

4. A copy of the current operating budget of the association.

5. A copy of the most recent annual financial report of the association. If the report is more than ten pages, the association may provide a summary of the report in lieu of the entire report.

6. A copy of the most recent reserve study of the association, if any.

B. A purchaser or seller who is damaged by the failure of the unit owner or the association to disclose the information required by subsection A of this section may pursue all remedies at law or in equity against the unit owner or the association, whichever failed to comply with subsection A of this section, including the recovery of reasonable attorney fees.

C. The association may charge the unit owner a reasonable fee to compensate the association for the costs incurred in the preparation of a statement furnished by the association pursuant to this section. The association shall make available to any interested party the amount of any fee established from time to time by the association.

D. A SALE IN WHICH A PUBLIC REPORT IS ISSUED PURSUANT TO SECTIONS 32-2183 AND 32-2197.02 OR A SALE PURSUANT TO SECTION 32-2181.02 IS EXEMPT FROM THIS SECTION.

~~D.~~ E. For purposes of this section, unless the context otherwise requires, "unit owner" means the seller of the condominium unit title and excludes any real estate salesperson or real estate broker who is licensed under title 32, chapter 20 and who is acting as a salesperson or broker and also excludes a trustee of a deed of trust who is selling the property in a trustee's sale pursuant to chapter 6.1 of this title.

Sec. 2. Section 33-1806, Arizona Revised Statutes, is amended to read:

33-1806. Resale of units; information required; definition

A. ~~Except for a sale in which a public report shall be issued pursuant to section 32-2183 and section 32-2197.02, for a sale which is exempt pursuant to section 32-2181.02 or~~ For planned communities with fewer than fifty units, a member shall mail or deliver to a purchaser within ten days after receipt of a written notice of a pending sale of the unit, and for planned communities with fifty or more units, the association shall mail or deliver to a purchaser within ten days after receipt of a written notice of a pending sale that contains the name and address of the purchaser, all of the following:

1 1. A copy of the bylaws and the rules of the association.

2 2. A copy of the declaration.

3 3. A dated statement containing:

4 (a) The telephone number and address of a principal contact for the
5 association, which may be an association manager, an association management
6 company, an officer of the association or any other person designated by the
7 board of directors.

8 (b) The amount of the common regular assessment and the unpaid common
9 regular assessment, special assessment or other assessment, fee or charge
10 currently due and payable from the selling member.

11 (c) A statement as to whether a portion of the unit is covered by
12 insurance maintained by the association.

13 (d) The total amount of money held by the association as reserves.

14 (e) If the statement is being furnished by the association, a
15 statement as to whether the records of the association reflect any
16 alterations or improvements to the unit that violate the declaration. The
17 association is not obligated to provide information regarding alterations or
18 improvements that occurred more than six years before the proposed sale.
19 Nothing in this subdivision relieves the seller of a unit from the obligation
20 to disclose alterations or improvements to the unit that violate the
21 declaration, nor precludes the association from taking action against the
22 purchaser of a unit for violations that are apparent at the time of purchase
23 and that are not reflected in the association's records.

24 (f) If the statement is being furnished by the member, a statement as
25 to whether the member has any knowledge of any alterations or improvements to
26 the unit that violate the declaration.

27 (g) A statement of case names and case numbers for pending litigation
28 with respect to the unit filed by the association against the member or filed
29 by the member against the association. The member shall not be required to
30 disclose information concerning such pending litigation which would violate
31 any applicable rule of attorney-client privilege under Arizona law.

32 (h) A statement that provides "I hereby acknowledge that the
33 declaration, bylaws and rules of the association constitute a contract
34 between the association and me (the purchaser). By signing this statement, I
35 acknowledge that I have read and understand the association's contract with
36 me (the purchaser). I also understand that ~~by accepting this contract, I may~~
37 ~~be giving up my rights to the homestead exemption protection regarding a lien~~
38 ~~of the association~~ AS A MATTER OF ARIZONA LAW, IF I FAIL TO PAY MY
39 ASSOCIATION ASSESSMENTS, THE ASSOCIATION MAY FORECLOSE ON MY PROPERTY." The
40 statement shall also include a signature line for the purchaser and shall be
41 returned to the association within fourteen calendar days.

42 4. A copy of the current operating budget of the association.

43 5. A copy of the most recent annual financial report of the
44 association. If the report is more than ten pages, the association may
45 provide a summary of the report in lieu of the entire report.

1 6. A copy of the most recent reserve study of the association, if any.

2 B. A purchaser or seller who is damaged by the failure of the member
3 or the association to disclose the information required by subsection A of
4 this section may pursue all remedies at law or in equity against the member
5 or the association, whichever failed to comply with subsection A of this
6 section, including the recovery of reasonable attorney fees.

7 C. The association may charge the member a reasonable fee to
8 compensate the association for the costs incurred in the preparation of a
9 statement furnished by the association pursuant to this section. The
10 association shall make available to any interested party the amount of any
11 fee established from time to time by the association.

12 D. A SALE IN WHICH A PUBLIC REPORT IS ISSUED PURSUANT TO SECTIONS
13 32-2183 AND 32-2197.02 OR A SALE PURSUANT TO SECTION 32-2181.02 IS EXEMPT
14 FROM THIS SECTION.

15 E. For purposes of this section, unless the context otherwise
16 requires, "member" means the seller of the unit title and excludes any real
17 estate salesperson or real estate broker who is licensed under title 32,
18 chapter 20 and who is acting as a salesperson or broker and also excludes a
19 trustee of a deed of trust who is selling the property in a trustee's sale
20 pursuant to chapter 6.1 of this title.

APPROVED BY THE GOVERNOR APRIL 18, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2005.

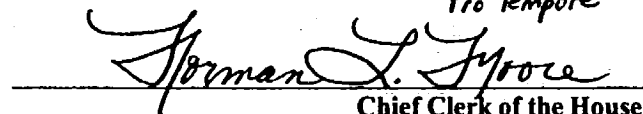
Passed the House April 12, 2005,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting



Speaker of the House
Pro Tempore

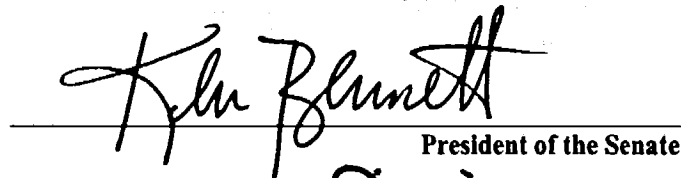


Chief Clerk of the House

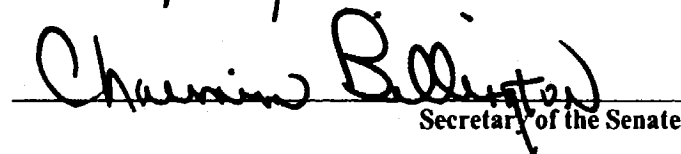
Passed the Senate March 2, 2005,

by the following vote: 28 Ayes,

0 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13th day of April, 2005

at 12:46 o'clock P. M.

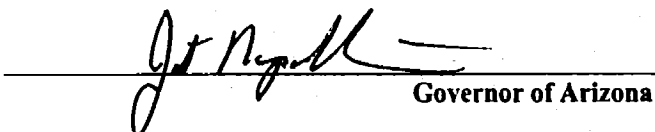


Secretary to the Governor

Approved this 18 day of

April, 2005,

at 2⁰⁰ o'clock P. M.



Governor of Arizona

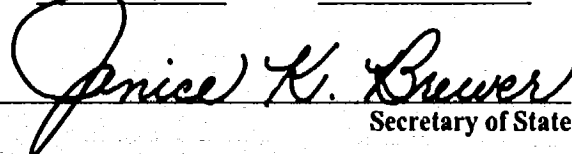
S.B. 1298

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18 day of April, 2005,

at 4:42 o'clock P. M.



Secretary of State